IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN THE MATTER OF: Chapter 13

Garry Markton Freeman, Case No. 15-71752-pmb

Debtor.

Garry Markton Freeman,

Plaintiff, Adv. Proc. No. ________

vs.

Quality Recovery Services, Inc.,

Defendant.

COMPLAINT SEEKING DAMAGES IN ADVERSARY PROCEEDING

INTRODUCTION

This is an action for damages and equitable relief based upon the Defendant's overt and intentional unlawful conduct in the furtherance of its efforts to collect a consumer debt. The Defendant's conduct is in violation of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, *et seq.*, These claims arise as a result of Defendant's overt and intentional conduct.

JURISDICTION AND VENUE

1. This is a core proceeding as defined by 28 U.S.C. § 157, and this is a matter arising in a case under Title 11.

2. This Court has proper matter jurisdiction pursuant to 28 U.S.C. § 157(b) and § 1334.

3. Jurisdiction is conferred on this Court by 15 U.S.C. § 1640(e) and 28 U.S.C. §§ 1331 and 1337. Supplemental jurisdiction of the state law claims is conferred by 28 U.S.C. § 1367. Venue lies in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

4. The Plaintiff is a debtor in the underlying Chapter 13 pending in this Court, case number 15-71752-pmb.

5. The Defendant is a corporation organized under the laws of the State of Georgia.

6. Defendant has entered the Plaintiff's Chapter 13 seeking to collect a debt allegedly originated by a third-party.

FACTUAL ALLEGATIONS

7. The Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

8. The Defendant markets itself as a collection agency.

9. The Defendant is a "debt collector" as defined by 15 U.S.C. § 1692a(5) and (6).

10. On November 10, 2015, Plaintiff's Chapter 13 proceeding was commenced by the filing of a voluntary petition with the Clerk of this Court.

11. On November 23, 2015, Defendant filed Proof of Claim Number 1 (the "POC") in the amount of $10,358.89, alleging that it was collecting a debt based upon a "residential lease default. " POC 1, page 1-2.

12. Defendant did not attach to its POC any documentation describing an assignment of the debt, its role as a collection agent, or a contract supporting its claim.

13. Defendant indicated on its POC that the claim included interest or other charges in addition to the principal amount of the claim. POC, page 1, enumeration 1.

14. Defendant attached to its POC is a "Collection Account Form" detailing the amount owed and the charges that comprised the total claim. POC 1, page 2.

15. The itemization of the Collection Account Form details an amount over $3,000 *less* than that claimed by Defendant in the POC.

16. Upon information and belief, the statement of account itemizes charges imposed upon the Plaintiff that are not provided for under the lease, are fraudulent, or otherwise unlawful.

17. The debt referenced in enumeration 14 is a "consumer debt" as defined by 15 U.S.C. § 1692a (3) and (5).

DAMAGES

18. As a result of Defendant's actions, Plaintiff has suffered actual damages, including time expended to confer with her counsel regarding the details of the proof

of claim; consumption of resources in the form of his attorney time and resources in challenging an unlawful claim; potential harm through possible payment of an unenforceable clam; and worry over the repercussions of Defendant's unlawful conduct.

FIRST CLAIM FOR RELIEF -- OBJECTION TO CLAIM

19. Plaintiff repeats and realleges paragraphs 1-17 as though more fully set forth herein.

20. The Debtor objects to Defendant's proof of claim on the grounds that it attempts to collect improper fees that are not provided for under the contract, per the supporting documentation filed by the Defendant and is therefore objectionable under 11 U.S.C. § 502(b)(1) and should be disallowed.

COUNT I

VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT ("FDCPA") 15 U.S.C. § 1692, *et seq*.

21. Plaintiff repeats and realleges the preceding paragraphs 1-18 as though more fully set forth herein.

22. Defendant's filing of its POC was an attempt to collect a consumer debt.

23. The Defendant has made numerous false, deceptive and misleading statements in its attempt to collect a consumer debt in violation of 15 U.S.C. §§ 1692e and 1692f.

24. The acts and omissions by Defendant constitute violations of the FDCPA including, but not limited to, collecting or attempting to collect amounts not permitted by law and by otherwise using unfair and deceptive methods in direction violation of 15 U.S.C. 1692f(1).

25. The Plaintiff has suffered actual damages as a result of Defendant's conduct as described herein.

26. As a result of Defendant's violations of the FDCPA, Defendant is liable to Plaintiff for actual damages, statutory damages in the amount of $1,000.00, costs of this action and reasonable attorney's fees as determined by the Court as mandated by 15 U.S.C. § 1692k.

WHEREFORE, the Plaintiff having set forth his claims for relief against the Defendant respectfully prays of the Court as follows:

A. That Proof of Claim Number 1 be disallowed;

B. That the Court award actual damages in an amount to be shown at trial, statutory damages in the amount of $1,000.00, costs and reasonable attorney's fees as determined by the Court pursuant to 15 U.S.C. § 1692k; and

C. That the Court award reasonable attorney's fees and expenses pursuant to 15 U.S.C. § 1692k; and

E. That the Plaintiff have such other and further relief as the Court may deem just and proper.

This the 21st day of November, 2016.

Respectfully submitted,

*/s/ Matthew T. Berry*________
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